

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 26, 2010

- D057152 In re Estate of Amico**
Pursuant to California Rules of Court, rule 8.140, the appeal filed October 23, 2009, is dismissed for appellant's failure to timely designate the record.
- D056614 People v. Paisley**
Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)
- D057461 Willis v. The Superior Court of San Diego County/People**
At the request of petitioner, the petition for writ of mandate is dismissed.
- D057452 In re Shaw on Habeas Corpus**
The petition is denied.
- D057035 In re K.L., a Juvenile**
The appeal is dismissed. Benke, Acting P.J.; We Concur: Haller, J., McIntyre, J.
- D057728 In re Roe on Habeas Corpus**
The petition is denied.
- D057693 In re Robles on Habeas Corpus**
The petition is denied without prejudice to refiling in Imperial County Superior Court, 939 West Main Street, El Centro, California 92243. The request to review the petition in conjunction with the pending appeal is denied.
- D057708 Liberty West Mortgage, L.P. et al. v. Superior Court of San Diego County/Bivens**
The petition is denied.

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- D056297 In re C.C. et al., Juveniles**
The orders are affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McIntyre, J.
- D057443 S.X. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner S.X. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. No timely petition for writ relief has been filed for petitioner P.X. The notice of intent as to P.X. is deemed to be abandoned. The case is dismissed.
- D057659 Nicole J. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner Nicole J. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. Counsel's request, on petitioner's behalf, for an extension of time to file a petition is denied. The case is dismissed.
- D055736 Tang v. CS Clean Systems**
The petition for rehearing is denied.
- D057599 Holly A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner Holly A. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 will not be filed as there are no viable issues for writ review. Counsel's request, on petitioner's behalf, for an extension of time to file a petition is denied. The case is dismissed.
- D057618 In re Alatorre on Habeas Corpus**
The petition is denied.
- D057439 Heather C. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.
- D057465 Jamie L. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

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July 27, 2010 (Continued)

- D057469 A.M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.
- D057458 E.M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.
- D057651 In re Napper on Habeas Corpus**
The petition is denied.
- D057640 In re Knapp on Habeas Corpus**
The petition is denied.
- D057755 Booth v. Superior Court of San Diego County/People**
The petition is denied.
- D057623 In re Thornton on Habeas Corpus**
The petition is denied. The Clerk of the Court is directed to serve a copy of the petition and this order on appellate counsel for petitioner to: Victoria Matthews, Appellate Defender's, Inc., 555 West Beech Street, Suite 300, San Diego, California 92101.
- D057643 In re Blanchard on Habeas Corpus**
The petition is denied.

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D055815 People v. Voiles

The trial court is directed to (1) strike the restitution fine of \$1,200, (2) amend the abstract of judgment accordingly, and (3) forward the amended abstract of judgment to the California Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

Haller, J.; We Concur: Huffman, Acting P.J., Nares, J.

D056307 In re Skyler H., a Juvenile

The findings and orders are confirmed. CERTIFIED FOR PUBLICATION.

Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

D055950 In re the Marriage of Gruen

Upon written stipulation filed by the parties to the appeal, the cross-appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on the cross-appeal.

D057634 In re Thornton on Habeas Corpus

The petition is denied. The Clerk of the Court is directed to serve a copy of the petition and this order on appellate counsel for petitioner: Victoria Matthews, Appellate Defender's, Inc., 555 West Beech Street, Suite 300, San Diego, California 92101.

D055435 People v. Geter

The judgment is affirmed.

Huffman, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

D055139 People v. Kirkland

The judgment is affirmed.

Huffman, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D056850 People v. Mota

The judgment is affirmed. Huffman, Acting P.J.; Nares, J., Haller, J.

D055534 Alga Hills Homeowners Association v. Gallagher

Order affirmed. The parties to bear their own costs on appeal.

Haller, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D056798 People v. Yanke

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

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July 28, 2010 (Continued)

D055143 Reynolds v. Yturalde

The final judgment is reversed in part only to vacate all costs rulings, as follows. The trial court is directed (1) to deny the motion to enforce a settlement agreement, (2) to deny the motion to strike defendant's costs memo, (3) to allow such appropriate further proceedings on the motion to tax costs as will determine the proper effect of section 998 upon the parties' respective cost entitlements, and (4) enter an amended final judgment. Costs on appeal to be borne by the respective parties.

D053991 In re A.G., a Juvenile

The true finding that A.G. violated San Diego Municipal Code section 58.0102 is reversed. In all other respects the judgment is affirmed. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

D056069 People v. Mendoza

The criminal street gang enhancements are reversed and the case is remanded for resentencing. In all other respects the judgment is affirmed. Irion, J.; We Concur: O'Rourke, Acting P.J., Aaron, J.

D057127 La Croix v. La Croix

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

D055519 People v. Powell

The petition for rehearing is denied.

D057810 Tucker et al. v. Superior Court of San Diego County/Rich's Investors, LLC

The petition is denied. There is an adequate remedy by appeal.

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- D055817 McCarthy v. Hyundai Motor America**
The Motion to Reconsider filed July 26, 2010, is treated as a petition for rehearing. The petition for rehearing is denied.
- D056572 In re Josiah A., a Juvenile**
The orders are affirmed. Huffman, Acting P.J.; We Concur: Haller, J., O'Rourke, J.
- D056288 People v. Purscelley, Jr.**
The judgment is affirmed. The superior court is directed to correct the abstract of judgment to reflect the indeterminate term of 25 years to life for the gun enhancement and to forward a copy of the corrected abstract to the Department of Corrections and Rehabilitation.
Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.
- D055837 People v. Langley**
The judgment is affirmed. McConnell, P.J.; We Concur: McDonald, J., Irion, J.
- D055177 People v. Koehler**
The judgment is affirmed.
O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.
- D055088 People v. Busser**
The opinion filed July 20, 2010, is certified for publication.
- D054305 People v. Robinson**
The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., Irion, J.
- D055236 Nunez v. Treinen**
The order is affirmed. Nunez is entitled to costs on appeal.
McConnell, P.J.; We Concur: O'Rourke, J., Aaron, J.
- D055265 People v. Holloway**
Holloway's sentence of three years four months on count 4 is modified to 16 months. The trial court is directed to prepare an amended abstract of judgment reflecting this modification, and to change the Penal Code reference related to count 4 from section 451, subdivision (b) to section 451, subdivision (d). The trial court is further directed to deliver the amended abstract of judgment to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.
Aaron, J.; We Concur: O'Rourke, Acting P.J., Irion, J.

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July 29, 2010 (Continued)

D054031 People v. Graham

The judgment is modified to reflect the striking of the parole evocation fine imposed pursuant to section 1202.45 and, as so modified, the judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Irion, J.

D057433 Pala Band of Mission Indians v. Arand et al.

The appeal filed May 27, 2010, is dismissed because appellant did not timely deposit costs for preparing the record on appeal (Cal. Rules of Court, rules 8.122(c), 8.130(b), 8.140).

D056804 Bejar v. Chula Vista Civil Service Commission

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

D056289 In re Solis on Habeas Corpus

The Governor's 2009 order reversing the Board's 2008 decision granting Solis parole is vacated, the Board's 2008 parole release order is reinstated, and Solis is ordered released from custody on parole on the conditions imposed by the Board. Nares, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

D055245 Pointe San Diego v. Glaser, Weil, Fink, Jacobs & Shapiro

Upon written stipulation filed by Pointe San Diego Residential Community, LP et al. and Greenberg Traurig, LLP, the appeal is dismissed as to defendant and respondent Greenberg Traurig, LLP, only and the remittitur is ordered to issue immediately as to Greenberg Traurig, LLP, only. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.

D054675 People v. Troncoso

The convictions in counts 2, 4, 5, 6, 8, 10, 11 and 12 are reversed; otherwise, the judgment is affirmed. The superior court is directed to recalculate Troncoso's presentence custody credits according to the amended version of Penal Code section 4019, amend the abstract of judgment according to this opinion, and forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

D057158 People v. Howell

Upon the filing of an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

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July 29, 2010 (Continued)

D055532 Chapala Management Corporation v. Stanton et al.

The judgment and postjudgment orders are affirmed. The temporary stay issued on October 29, 2009, is vacated. The petition for writ of supersedeas staying enforcement of the judgment for attorney fees and other costs is granted. The parties shall bear their own costs on appeal.
O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D054821 People v. Perry

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Huffman, J.

D057807 People v. Gonzalez

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refile a notice of appeal after an appealable order or judgment has been entered.

D054559 People v. Gonzalez et al.

The petition for rehearing is denied.

Court convened at 10:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Patricia Benke and Gilbert Nares
Clerk: D. Moore

D052978 People v. Archer

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Meredith Strong, Deputy Attorney General, argued for respondent. Cause submitted.

Court adjourned at 10:12 a.m.

D057752 In re Thornton on Habeas Corpus

The petition is denied.

D057652 In re Heard on Habeas Corpus

The petition is denied.

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- D056246 People v. Bernal**
The judgment is affirmed. The case is remanded to the trial court for correction of the minute order to reflect the court's oral pronouncement and the terms of the formal probation order. That is, the minute order should reflect a base fine of \$800 (rather than \$1,652); \$30 ICNA fee; \$30 court security fee; \$154 criminal justice administration (booking) fee; \$200 restitution fine; \$200 suspended probation revocation fine; \$38 theft fine including penalty assessment; and \$18.99 victim restitution. Haller, J.; We Concur: Benke, Acting P.J., O'Rourke, J.
- D055753 People v. Bunch**
The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Haller, J.
- D055974 People v. Rodriguez**
The judgment is reversed and the cause remanded to the trial court. If Rodriguez files a motion to withdraw his guilty plea within 30 days after the finality of this opinion, the court is directed to vacate the June guilty plea. If no motion is filed within that period, the court is directed to reinstate the judgment. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.
- D057380 In re L.T. et al., Juveniles**
The appeal is dismissed. Huffman, J.; We Concur: Benke, Acting P.J., Haller, J.
- D055422 Pinnacle Museum Tower Association v. Pinnacle Market Development (US), LLC et al.**
The judgment is affirmed.
McIntyre, J.; I Concur: Nares, Acting P.J.; I Dissent: O'Rourke, J. (opinion)
- D055268 Kaye v. Board of Trustees of the San Diego County Law Library et al.**
The judgment is affirmed. Defendants are entitled to costs on appeal.
McConnell, P.J.; We Concur: Huffman, J., McDonald, J.
- D056679 South Coast Pool Plastering, Inc. v. Bernier**
Pursuant to California Rules of Court, rule 8.140, the appeal filed January 15, 2010, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rule 8.121(a)).
- D057406 In re Williams on Habeas Corpus**
The petition is denied.
- D057641 In re Moran on Habeas Corpus**
The petition is denied.

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D057635 In re Vanlandingham on Habeas Corpus

For good cause shown, respondent is ordered to show cause why the relief requested should not be granted.

The Clerk of the Court is directed to provide Appellate Defenders, Inc., with a copy of the petition. Appellant Defenders is directed to submit, within 10 court days, a recommendation for counsel to represent petitioner in this matter.

Within 30 days after appointment of counsel, petitioner is directed to file a supplemental petition. Respondent may file a return within 30 days after the supplemental petition is filed. Petitioner may file a traverse within 20 days after the return is filed.

Absent a request by the parties within 10 days after the return is filed, oral argument will be deemed waived. If a party requests oral argument, the request should be in letter form with proof of service on the other parties. The letter should also identify the focus of the party's argument and the amount of time requested, not to exceed 15 minutes.